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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

JANE DOE,

Plaintiff,

vs.

JOSEPH LOMBARDO, Governor of Nevada, in
his official capacity; AARON FORD, Attorney
General of Nevada, in his official capacity; NYE
COUNTY; ELKO COUNTY; STOREY
COUNTY; WESTERN BEST, LLC; DESERT
ROSE CLUB, LLC; HACIENDA ROOMING
HOUSE, INC. D/B/A BELLA'S HACIENDA
RANCH; MUSTANG RANCH
PRODUCTIONS, LLC D/B/A MUSTANG
RANCH LOUNGE, LLC; LEONARD
'LANCE' GILMAN, in his official capacity; and
LEONARD 'LANCE' GILMAN, in his
individual capacity,

Defendants.

Case No.: 3:24-cv-00065-MMD-CSD

**PLAINTIFF'S COMBINED MOTION TO
STRIKE DEFENDANT HACIENDA
ROOMING HOUSE, INC. D/B/A BELLA'S
HACIENDA RANCH'S RESPONSE [ECF
No. 126] TO PLAINTIFF'S REQUEST
FOR ENTRY OF DEFAULT [ECF No. 113]
AND DECLARATION OF BELLA
CUMMINS IN SUPPORT THEREOF,
AND RESPONSE TO DEFENDANT
HACIENDA ROOMING HOUSE, INC.
D/B/A BELLA'S HACIENDA RANCH'S
NOTICE OF UNAVAILABILITY AND
MOTION FOR A CONTINUANCE OF
TIME DURING THIS UNAVAILABILITY
[ECF No. 129]**

COMES NOW, Plaintiff Jane Doe (hereinafter “Plaintiff”), by and through her undersigned counsel, hereby brings this Combined Motion to Strike Defendant Hacienda Rooming House, Inc. d/b/a Bella’s Hacienda Ranch’s (hereinafter “Defendant Bella’s”) Response [ECF No. 126] to Plaintiff’s Request for Entry of Default [ECF No. 113] and Declaration of Bella Cummins in support thereof, and Plaintiff’s Response to Defendant Bella’s Notice of Unavailability and Motion for a Continuance of Time During this Unavailability [ECF No. 129]. The arguments in support of this Motion are set out in the Memorandum in Support incorporated herein by this reference.

MEMORANDUM OF SUPPORT

INTRODUCTION

On August 29, 2024, Plaintiff filed her motion requesting entry of default against Defendant Bella’s, ECF No. 113. Defendant Bella’s had until September 12, 2024, to file a response, but failed to do so. On September 12, 2024, the Clerk properly entered default judgment against Defendant Bella’s, ECF No. 122. On September 16, 2024, four days late and without leave of Court, Defendant Bella’s filed a Response to Clerk’s Entry of Final Judgment, ECF No. 126. Because it is improper and moot, Defendant Bella’s Response, ECF No. 126, should be struck from the record.

ARGUMENT

A response to a motion must be made within 14 days after service of the motion. Fed. Distr. Ct. of Nevada L.R. 7-2(b). Failure of an opposing party to file points and authorities in response to a motion, constitutes a consent to the granting of the motion. Fed. Distr. Ct. of Nevada L.R 7-2(d). Finally, a judge may strike supplemental filings made without leave of court. Fed. Distr. Ct. of Nevada L.R 7-2(g).

1 Defendant HACIENDA ROOMING HOUSE, INC. D/B/A BELLA’S HACIENDA
2 RANCH, Response to Clerk’s Entry of Final Judgment¹, ECF No. 126, was improper because (1)
3 Defendants failed to submit a response to Plaintiff’s Request for Clerk’s Entry of Judgment of
4 Default within 14 days of being served, and (2) the Clerk had already granted default at the time
5 of Defendant’s response.
6

7 Defendant HACIENDA ROOMING HOUSE, INC. D/B/A BELLA’S HACIENDA
8 RANCH was served with the motion for entry of default on August 29, 2024, and did not file
9 their response to Plaintiff’s Motion for Entry of Judgment, ECF No. 113, until September 16,
10 2024, four days after Clerk had entered default judgment on September 12, 2024, ECF No. 122.
11 This response was not timely, and an untimely motion by an opposing party constitutes consent
12 to granting of the motion, in this case, Plaintiff’s Request for Entry of Judgment, ECF No. 113.
13 Defendant Bella’s consented to the entry of default by failing to respond, making Defendant’s
14 Response to Entry of Judgment, ECF No. 126, a supplemental brief filed without leave to do so,
15 and this Court should strike it accordingly.
16
17

18 Defendant’s response is moot because the request it is opposing has already been granted.
19 Should Defendant Bella’s choose instead to move to set aside the Clerk’s entry of default, or for
20 some form of reconsideration, Plaintiff Jane Doe will respond substantively to the service of
21 process arguments Defendant raises.
22

23 Plaintiff Jane Doe does not oppose Defendant’s request for a continuance as to future
24 deadlines, ECF No. 129, so long as it is not interpreted to apply retroactively to the deadlines for
25

26
27
28 ¹ In the ECF notification system, Defendant’s response is titled as a response to the Clerk’s entry, but its actual title and substance are both an opposition to Plaintiff’s motion for default.

1 responding to Plaintiff's Complaint, ECF 1 or Plaintiff's Request for Entry of Default, ECF No.
2 113.

3 **CONCLUSION**

4
5 For the foregoing reasons, Plaintiff Jane Doe requests that this Court strike Defendant's
6 response in opposition to the motion for entry of default.

7 Respectfully submitted,

8
9 Dated: September 30, 2024

/s/ Christen M. Price

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/s/ Jennifer Johnson